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A.D. Caesar (1901-1995) Charles W. Rivise (1900-1951) Counsel Allan H. Fried Of Counsel Max Goldman* " Also admitted to practice in NJ † Admitted only in NJ and NY

FACSIMILE TRANSMITTAL SHEET

October 3, 2003

TO:

Examiner A. Chakrabarti

Group Art Unit 1634

U.S. Patent & Trademark Office

FACSIMILE NO.:

(703) 872-9306

FROM:

David M. Tener, Esq.

NO. OF PAGES: 7 (Including Cover)

Our Reference No.: E1047/20060

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FACSIMILE TRANSMISSION CERTIFICATION

I hereby certify that this correspondence (including the attached Request for Reconsideration, Terminal Disclaimer, Statement Under 37 CFR 3.73(b) and Fee Transmittal in duplicate) regarding the application identified below, is being transmitted via facsimile to the United States Patent and Trademark Office on this 3rd day of October, 2003.

David M. Tener, Reg. No. 37,054

Applicant(s): Glen H. ERIKSON et al.

Serial No: 09/911,047

Group Art Unit: 1634

Filed: July 23, 2001

Examiner: A. Chakrabarti

Att. Docket No.: E1047/20060

Confirmation No.: 3230

HOMOGENEOUS ASSAY OF BIOPOLYMER BINDING BY MEANS OF

MULTIPLE MEASUREMENTS UNDER VARIED CONDITIONS

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This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case, Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Tradamark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS, SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

D/SB/17 (10-03) Approved for use through 07/31/2006. OMB 0651-0032 U.S. Palent and Trademark Office; U.S. DEPARTMENT OF COMMERCE Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. FEE TRANSMITTAL Complete if Known Application Number 09/911,047 Filing Date for FY 2004 July 23, 2001 First Named Inventor Glen H. ERIKSON et al. Effective 10/01/2003. Patent fees are subject to ennual revision. **Examiner Name** A. Chakrabarti Applicant claims small entity status. See 37 CFR 1.27 Art Unit 1634 (\$) 55.00 TOTAL AMOUNT OF PAYMENT E1047/20060 Attorney Docket No. METHOD OF PAYMENT (check all that apply) FEE CALCULATION (continued) Check Credit card 3. ADDITIONAL FEES Other None arge Entity | Small Entity ✓ Deposit Account: Fea Code Fee Description Deposit (\$) 03-0075 Fee Paid Number 1051 130 2051 65 Surcherge - late filing fee or oath Deposit Caesar, Rivise et al. 1052 50 2052 25 Surcharge - late provisional filing fee or Account Name 1053 130 Non-English specification The Director is authorized to: (check all that apply) 1812 2.520 1812 2,520 For illing a request for ex parte reexamination Charge fee(s) Indicated below ✓ Credit any overpayments 1804 920 1804 920* Requesting publication of SIR prior to Examiner action Charge any additional fee(s) or any underpayment of fee(s) Charge fee(s) indicated below, except for the filing fee 1805 1,8401 Requesting publication of SIR after Examiner action 1805 1.8401 to the above-klentified deposit account. 1251 110 2251 Extension for reply within first month FEE CALCULATION 55 1252 420 2252 210 Extension for reply within second month 1. BASIC FILING FEE arge Entity Şmall Entity 1253 950 2253 475 Extension for reply within third month Fee Description Fee Paid Fee Fee Code (\$) 1254 1,480 2254 740 Extension for reply within fourth month Code (\$) 1001 770 1255 2,010 2255 2001 385 1,005 Extension for reply within fifth month Utility filing fee 1002 340 2002 170 1401 Design filling fee 330 2401 165 Notice of Appeal 1003 530 2003 265 Plant filing fee 1402 330 2402 165 Filing a brief in support of an appeal 2004 385 1004 770 Reissue filing fee 1403 290 2403 145 Request for oral hearing 2005 60 1451 1.510 1005 160 Provisional filing fee 1451 1,510 Petition to institute a public use proceeding SUBTOTAL (1) (\$) 0.00 1452 2452 110 55 Petition to revive - unavoidable 1453 1.330 2453 665 Petition to revive - unintentional 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE 1501 1.330 2501 665 Utility issue fee (or reissue) Ext<u>ra Claim</u>s Fee Paid below 1502 2502 480 240 Design issue fee Total Claims 320 Plent issue fee 1503 640 2503 <u>Independent</u> 1460 Cialms Multiple Dependent 130 1460 130 Petitions to the Commissioner 1807 5Ď 1807 50 Processing fee under 37 CFR 1,17(q) Large Entity Small Entity 1806 180 1806 180 Submission of Information Disclosure Strat Fee Description Fee Fee Code (\$) Fee Fee Code (\$) 40 Recording each patent assignment per 8021 40 8021 property (times number of properties) 1202 18 2202 Claims in excess of 20 385 Filing a submission after final rejection (37 CFR 1.129(a)) 1609 770 2809 1201 86 2201 Independent claims in excess of 3 43 1203 290 2203 145 Multiple dependent claim, if not paid 1810 770 385 For each additional invention to be examined (37 CFR 1.129(b)) 2810 Reissue independent claims over original patent 1204 RA 2204 43 1801 770 2801 385 Request for Continued Examination (RCE) Reissue claims in excess of 20 and over original patent 900 Request for expedited examination 1205 18 2205 1802 900 1802 Other fee (specify) Statutory Disclaimer 37 CFR 1.20(d) 55,00 [(\$) 0.00 SUBTOTAL (2) *Reduced by Basic Filing Fee Paid Tor number previously paid, if greater; For Reissues, see above SUBTOTAL (3) (\$) 55.00 SUBMITTED 91 (Complete (# applicable)) Name (Print/Type) David M. Tener Registration No. 37,054 Telephone 215-567-2010 (Attorney/Agent) Signature

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Date

10/03/2003

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE PATENT EXAMINING OPERATION

Applicant(s): Glen H. ERIKSON et al.

Serial No: 09/911,047

Group Art Unit: 1634

Filed: July 23, 2001

Examiner: A. Chakrabarti

Att. Docket No.: E1047/20060

Confirmation No.: 3230

For:

HOMOGENEOUS ASSAY OF BIOPOLYMER BINDING BY MEANS OF

MULTIPLE MEASUREMENTS UNDER VARIED CONDITIONS

REQUEST FOR RECONSIDERATION

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated September 30, 2003, favorable reconsideration is respectfully requested in view of the following remarks. Claims 1-29 are pending.

Applicants gratefully acknowledge the indication in the Office Action that the pending obviousness-type double patenting rejection of claims 1-18 and 20-29 (the sole rejection in the Office Action) can be overcome by the filing of a Terminal Disclaimer over U.S. Patent No. 6,265,170 B1. Such a Terminal Disclaimer and a Statement Under 37 CFR 3.73(b) are attached to obviate these rejections. Authorization to charge the corresponding fee to our Deposit Account No. 03-0075 is provided in the attached Fee Transmittal Form. Accordingly, reconsideration and withdrawal of the obviousness-type double patenting rejection of claims 1-18 and 20-29 are respectfully requested.

Application No. 09/911,047
Request for Reconsideration Dated October 3, 2003
Reply to Office Action of September 30, 2003

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN, COHEN & POKOTILOW, LTD.

David M. Tener Registration No. 37,054 Customer No. 03000 (215) 567-2010

Attorneys for Applicants

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Page 2 of 2

October 3, 2003

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